



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, DC**

Issued by the Department of Transportation on May 27, 1998

NOTICE OF ACTION TAKEN -- DOCKET OST-95-369

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Application of **United Air Lines, Inc.** filed **2/27/98** to:

XX Renew for two years exemption under 49 U.S.C. 40109 to provide the following service:

Scheduled foreign air transportation of persons, property, and mail between (a) points in the United States and Lyon, France, and (b) points in the United States and Nairobi, Kenya, via any point or points in Germany. United intends to operate this service pursuant to a code-share arrangement with Lufthansa German Airlines.

XX Amend exemption to:

Permit United to serve Lyon and Nairobi via points in other countries which United is authorized to serve, in addition to points in Germany. United intends to operate these services pursuant to authorized code-share arrangements with code-share partners in addition to Lufthansa. In conjunction with this amendment, United seeks authority to integrate its services to Lyon and Nairobi with its existing certificate and exemption authority to facilitate the routings proposed.

Applicant rep.: **Joel Stephen Burton, 202-637-9130** DOT analyst: **Sylvia Moore, 202-366-6519**

DISPOSITION

XX Granted in part (subject to conditions, see below)

XX Balance dismissed (U.S.-Lyon)

The above action was effective when taken: **May 27, 1998,** through **March 20, 2000**

**Action taken by: Paul L. Gretch, Director
Office of International Aviation**

XX Exemption authority granted is consistent with the overall state of aviation relations between the United States and Kenya, and the aviation agreement between the United States and the Federal Republic of Germany.

Except to the extent exempted or waived, this authority is subject to the terms, conditions, and limitations indicated:

XX Holder's certificate of public convenience and necessity

XX Standard Exemption Conditions (attached)

(See Reverse Side)

Conditions: Any service provided under the route integration authority granted shall be consistent with all applicable agreements between the United States and the foreign countries involved, and further (a) nothing in the award of the route integration authority granted should be construed as conferring upon United rights (including fifth-freedom, intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless United notifies us of its intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights, and (b) should there be a request by any carrier to use the limited-entry route rights that are included in United's authority by virtue of the route integration exemption granted here, but that are not then being used by United, the holding of such authority by route integration will not be considered as providing United a preference in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

The code-sharing operations conducted under this authority must comply with 14 CFR 399.88 of the Department's regulations and any amendments to the Department's regulations concerning code-share arrangements that may be adopted, and are expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out such service in computer reservation systems and elsewhere; that the carrier selling such transportation (*i.e.*, the carrier shown on the ticket), accept all obligations established in its contract of carriage with the passenger; that the passenger liability of the operating carrier be unaffected; and that the operating carrier shall not permit the code of its U.S. carrier code-sharing partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition.

Remarks: We dismissed that portion of United's application that sought authority between the United States and Lyon, France. By Notice of Action Taken dated May 8, 1998, the Department granted United exemption authority between any point in the United States and any point in France (Docket OST-98-3732). Since the U.S.-Lyon authority is encompassed by its authority granted in Docket OST-98-3732, that portion of United's application in Docket OST-95-369 became moot. .

On the basis of data officially noticeable under Rule 24(n) of the Department's regulations, we found the applicant qualified to provide the services authorized.

Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) immediate action was required and was consistent with Department policy; and (2) grant of the authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted or dismissed, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within ten (10) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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<http://dms.dot.gov/general/orders/aviation.html>*